IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1080/2005
(Baluram Bansal @ Babulal Gupta Vs. State of Rajasthan)

Date of Order : 12/12/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. P.N.Mohanani for the petitioner.
Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner seeks quashing of FIR No. 248/05 Police Station, Pratapnagar, Bhilwara for the offence under Section 420 IPC.

I have heard learned counsel for the parties. Perused the FIR as also the police investigation diary.

It is contended by learned counsel for the petitioner that the petitioner has made the payment of the goods supplied to him to co-accused R.K.Sharma by two cheques amounting to Rs. 14956/- and Rs. 45897/-.

In the police investigation diary, there is no such material so far collected by the investigating officer that any

amount has been paid by the petitioner to Mr. R.K.Sharma or the complainant. The petitioner was directed to appear before the Investigating officer and the investigating officer was directed to interrogate him vide order dated 8.12.2005. Again by the order dated 14.7.2006, the petitioner was directed to appear before the investigating officer on or before 26.7.2006 and the investigating officer was directed to interrogate him and submit report of investigation to this Court. It appears that despite repeated directions, the petitioner failed to appear before the Investigating Officer which is evident from the police investigation diary.

Counsel for the petitioner submits that he has received a communication from the local counsel that the petitioner has already appeared before the investigating officer.

The police investigation diary does not disclose that the petitioner appeared before the investigating officer for investigation. On perusal of the FIR, it appears that one R.K.Sharma is broker and through him, goods worth Rs.1,45,827/- were sent to the petitioner which have been received by him and counsel for the petitioner even submits that two cheques of Rs. 14956/- and Rs. 45897/- have been sent to R.K.Sharma. This shows that the goods sent to the petitioner have been received by him. Had the goods been not received by him, there was no occasion for sending two cheques. Be that as

it may, the money has not reached to the complainant and even otherwise, on close scrutiny of the FIR, it cannot be said that the FIR does not disclose commission of cognizable offence. In my view, no case for quashing the FIR is made out. The matter needs to be investigated. It is open for the petitioner to appear before the investigating officer and file documents relating to payments made by him either to R.K.Sharma or to the complainant.

The petition has no force and it is therefore, dismissed. Interim stay order dated 28.9.2005 stands vacated and stay petition also stands dismissed.

(H.R.PANWAR),J.

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